

**REMARKS**

This Preliminary Amendment is filed in response to the Office Action mailed on January 29, 2007, and with a Request for Extension of Time of three months.

Claims 1-12, and 14-72 are in the case.

Claims 1-12, and 14-43 were amended to better claim the invention.

Claims 44-72 were added to better claim the invention.

**Request for Interview**

The Applicant respectfully requests a telephonic interview with the Examiner after the Examiner has had an opportunity to consider this Amendment, but before the issuance of the next Office Action. The Applicant may be reached at 617-951-3028.

At Page 2 of the Office Action, claims 13-15 were indicated to be allowable if written in independent form. Claim 1 was amended to incorporate the structure of claim 13, and claim 13 therefore cancelled without prejudice. It is believed that claim 1 is now in condition for allowance.

At Page 2 of the Office Action the specification was objected to on the grounds that incorporation by reference was not properly done.

Applicant has searched the Specification looking for an instance of improper incorporation by reference, with the following result:

Pages 1-2, all of the mentioned U. S. Patent Applications are referred to as: “expressly incorporated herein by reference”, and therefore appear to be properly incorporated by reference;

at Page 5 line 7, the words “are hereby incorporated by reference” refer to two documents, and so they are properly incorporated by reference;

at Page 7 lines 20-21 the words “which is hereby incorporated by reference” applies to a patent application, and so it is properly incorporated by reference;

at Page 9 Lines 13-14 the words “both of which are expressly incorporated herein by reference” applies to two patent applications, and so they are properly incorporated by reference;

at Page 10 Lines 14-15 the words “the teachings of which are incorporated herein by reference” apply to a patent application, and so it is properly incorporated by reference;

at Page 11 Line 12 the words “The above-incorporated” apply to a patent application previously incorporated by reference, and so it is properly incorporated by reference;

at Page 18 Lines 24-25 the words “the teachings of which are hereby incorporated by reference” apply to a patent application, and so it is properly incorporated by reference;

at Page 19 Lines 2-3 the words “described in the above-incorporated patent application” apply to a patent application, and so it is properly incorporated by reference;

at Page 22 Line 2 the words “contents of which are hereby incorporated by reference” apply to a patent application, and so it is properly incorporated by reference;

at Page 22 Line 17 the following words “and other related applications incorporated hereinabove” apply to a patent application already incorporated by reference, and so it is properly incorporated by reference;

at Page 23 Lines 8-9 the words “as described in the above-incorporated U.S. Patent Application entitled” apply to a patent application, and so it is properly incorporated by reference;

at Page 23 Line 28 the words “is described in detail in the above-incorporated” apply to a patent application, and so it is properly incorporated by reference.

Accordingly, Applicant respectfully urges that all instances of incorporation by reference are properly worded.

Therefore, Applicant respectfully requests that the objection or rejection based on incorporation by reference be withdrawn.

At Page 3 of the Office Action the Specification was objected to because the Abstract contains more than 150 words.

The present Abstract is as presented in the Amendment filed at Page 2 of the Amendment filed on December 12, 2006. This Abstract has been checked for word count by Microsoft Word, and is found to contain 101 words.

Accordingly, the Abstract presented in the Amendment filed on December 12, 2006, is presented herewith, and it is believed to contain 101 words.

Therefore, Applicant respectfully requests entry of the presently presented Abstract.

At Page 3 of the Office Action claim 1 was rejected under 35 U.S.C. 101 on the grounds that “no result step is claimed.” Amendment of claim 1 is believed to satisfy this rejection.

At Page 4 of the Office Action Claims 1-3, 5, 7, 9-12 and 16 were rejected under 35 U.S.C. 102(e) as being anticipated by Barton U. S. Patent No. 6,490,722 issued December 3, 2002 (hereinafter Barton); in view of Thomas et al. U. S. Patent Publication No. US 2004 / 0022278 published on February 5, 2004.

Applicant’s invention, as set forth in representative claim 1, comprises in part:

1. A system to move data from a source system to a destination system, comprising:
  - the source system in communication with the destination system, the source system having a replication agent executing thereon, the replication agent adapted to generate a data stream, the data stream including,
    - a plurality of standalone headers, each of the plurality of standalone headers being representative of a plurality of a data stream characteristics;
    - a data following header, the data following header including an extended attribute field that associates an extended attribute with a data set information;
    - the destination system adapted to receive the data following header with the extended attribute; and*
    - an entry in a hidden permanent metadirectory of the destination system to store the data set information associated with the extended attribute, the entry having the extended attribute associated therewith so that retrieval of the entry from the hidden permanent metadirectory also retrieves the extended attribute.*

Barton discloses a software update system for installation of software and recovery from errors in the update process. Updates are transmitted to a client device by private data channels in digital television signals, through modulation of data onto the vertical blanking interval of an analog television signal, by direct connection with a server using a modem, etc.

Thomas discloses distributing television broadcast information using data packets with headers, including a packet identification (PID) in the header. His Figs. 8, 9, and 10 show Internet Protocol (IP) packets carrying television signals in encapsulated packets, each packet carrying a PID.

Applicant respectfully urges that neither Barton nor Thomas discloses Applicant's claimed novel

*the destination system adapted to receive the data following header with the extended attribute; and*

*an entry in a hidden permanent metadirectory of the destination system to store the data set information associated with the extended attribute, the entry having the extended attribute associated therewith so that retrieval of the entry from the hidden permanent metadirectory also retrieves the extended attribute.*

That is, both Barton and Thomas simply distribute television signals by digital packets where the television signals are simply displayed by a television receiver. Neither has any disclosure of Applicant's claimed novel *an entry in a hidden permanent metadirectory of the destination system to store the data set information associated with the extended attribute*, and further, neither Barton nor Thomas has any disclosure of

Applicant's claimed , *the entry having the extended attribute associated therewith so that retrieval of the entry from the hidden permanent metadirectory also retrieves the extended attribute.*

Accordingly, Applicant respectfully urges that both Barton and Thomas are legally incapable of anticipating Applicant's claimed novel invention under 35 U.S.C. 102 because of the absence from both of Applicant's claimed novel

*the destination system adapted to receive the data following header with the extended attribute; and*

*an entry in a hidden permanent metadirectory of the destination system to store the data set information associated with the extended attribute, the entry having the extended attribute associated therewith so that retrieval of the entry from the hidden permanent metadirectory also retrieves the extended attribute.*

At Page 7 of the Office Action claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Barton and Thomas, and further in view of Brannock U. S. Patent Publication No. 2003 / 0066062.

Applicant respectfully points out that Claim 4 is dependent from an independent claim believed to be in condition for allowance. Accordingly, Claim 4 is believed to be in condition for allowance.

At Page 8 of the Office Action claims 6 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Barton and Thomas, and further in view of French U. S. Patent Publication No. 2001 / 0001877.

Applicant respectfully points out that Claims 6 and 8 are dependent from an independent claim believed to be in condition for allowance. Accordingly, Claims 6 and 8 are believed to be in condition for allowance.

Applicant respectfully urges that independent claims 17, 27, 38, 40, 41 are allowable on the same grounds as representative claim 1.

Also, Applicant respectfully urges that independent claims 36 and 39 are allowable in view of all cited art because of the absence of any disclosure in the cited art of Applicant's claimed novel "first modification time", the "second modification time", and the recited *"if the second modification time and the first modification time are not the same, providing by the source system an instruction to the destination system to revert to an earlier stored copy of the data set on the replica."*

### **NEW CLAIMS**

Applicant respectfully urges that independent new claims 44, 58, and 72 are allowable because of the absence in all cited art of Applicant's claimed novel:

*"storing in the destination system, in response to receiving the data stream, the chunk of data associated with the data following header as an entry in a hidden meta-directory; and*

*retrieving the chunk of data from the hidden metadirectory so that retrieval of the entry from the hidden metadirectory also retrieves the extended attribute."*

All independent claims are believed to be in condition for allowance.

All dependent claims are dependent from independent claims which are believed to be in condition for allowance.

Accordingly, all dependent claims are believed to be in condition for allowance.

Favorable action is respectfully solicited.

Please charge all fees occasioned by this paper to our Deposit Account No. 03-1237.

The Director is hereby authorized to charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,

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